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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ULTRA INTERNET MEDIA, S.A., a company
organized under the laws of Nevis, West Indies;
and GIGAMEDIA LIMITED, a company
organized under the laws of the Republic of
China (Taiwan); and DOES 1-10,

Plaintiff/Counter-Defendants,

v.

HARRAH'S LICENSE COMPANY, LLC, a
Nevada limited liability company; and
HARRAH'S INTERACTIVE
ENTERTAINMENT, INC., a Delaware
corporation,

Defendants/Counterclaimants.

EVEREST GAMING LIMITED,

Plaintiff,

v.

HARRAH'S INTERACTIVE
ENTERTAINMENT, INC.; and HARRAH'S
LICENSE COMPANY, LLC,

Defendants.

Consolidated Base Case File No.: 2:10-cv-00455-JCM-RJJ

(consolidated with Case No.: 2:10-cv-00607-JCM-RJJ)

(consolidated w/ Case No.: 2:10-cv-00904-JCM-LRL)RJJ

**[PROPOSED] ORDER GRANTING
HARRAH'S LICENSE COMPANY, LLC'S
AND HARRAH'S INTERACTIVE
ENTERTAINMENT, INC.'S MOTION
FOR LEAVE TO MAKE ALTERNATIVE
SERVICE OF PROCESS ON COUNTER-
DEFENDANT GIGAMEDIA LIMITED**

1 This matter came before the Court on a Motion for Leave to Make Alternative Service of
 2 Process On Counter-Defendant GigaMedia Limited (the “Motion for Alternative Service”)
 3 (Docket No. 57) brought by Counterclaimants Harrah’s License Company, LLC and Harrah’s
 4 Interactive Entertainment, Inc. (collectively, “Harrah’s”) filed on August 11, 2010. Counsel for
 5 Counter-Defendant GigaMedia Ltd. (“GigaMedia”), Jay Young, Esq. and David T. Duncan, Esq.
 6 and the law firm of Marquis & Aurbach (“Marquis & Aurbach”), filed a Notice of Non-
 7 Opposition to Harrah’s Motion for Alternative Service on August 28, 2010 (the “Non-
 8 Opposition”) (Docket No. 64). None of the other parties to the above-captioned action has
 9 opposed the Motion for Alternative Service.

10 OVERVIEW

11 1. Harrah’s submitted its Motion for Alternative Service and sought therein leave of
 12 Court to effectuate service of process on GigaMedia through one or more of the following
 13 mechanisms consistent with the authority granted pursuant to Fed. R. Civ. P. 4(f)(3) and Ninth
 14 Circuit jurisprudence: (a) service on counsel for GigaMedia; (b) service by Federal Express,
 15 DHL, or international certified mail; and/or (c) service by electronic means.

16 2. The Court notes that Marquis & Aurbach has acknowledged that it has been
 17 retained by GigaMedia with regard to the above-captioned consolidated actions. *See* Non-
 18 Opposition, at 2 n. 1.

19 3. This Court has considerable discretion in determining whether alternative means
 20 of service should be permitted pursuant to Fed. R. Civ. P. 4(f). *Rio Properties, Inc. v. Rio Int’l*
 21 *Interlink*, 284 F.3d 1007, 1016 (9th Cir. 2002).

22 4. Rule 4(f)(3) “is as favored as service available under [Rule 4(f)] . . . and is not
 23 subsumed within or in any way dominated by Rule 4(f)’s other subsections; it stands
 24 independently, on equal footing.” *Rio Properties*, 284 F.3d 1007 at 1015 (citation omitted).
 25 Service under Rule 4(f)(3) “is neither a ‘last resort’ nor ‘extraordinary relief.’” *Id.* (citation
 26 omitted).

27 5. Service of process may be effectuated on GigaMedia pursuant to Rule 4(f)(2)(A)
 28 by: (a) delivering a copy of the summons and complaint to GigaMedia’s “manager concerned”

(*see Cosmotech International, LLC v. Der Kwei Enterprises*, 943 F.Supp. 311, 316 (S.D.N.Y. 1996)); and (b) by issuance of service documents by the clerk of a Taiwanese court of competent jurisdiction (*see Emine Tech. Co., Ltd. v. Aten Int'l Co., Ltd.*, 2008 WL 5000526, at *3 (N.D. Cal. Nov. 21, 2008)).

6. Moreover, Rule 4(f)(2)(C) permits service of process on GigaMedia in Taiwan through service by Federal Express, DHL or other international courier, and by international certified mail, issued and directed by the Clerk of this Court, and requiring the recipient to sign for receipt (*see Power Integrations, Inc. v. System General Corp.*, 2004 WL 2806168, at *2 and n. 3 (N.D. Cal. Dec. 7, 2004)).

7. Service of process may be effectuated on GigaMedia in Singapore by international certified mail, return receipt requested, issued by the Clerk pursuant to Rule 4(f)(2)(A). *See Trak Microcomputer Corp. v. Werne Bros.*, 1985 WL 3505, at *1 (N.D. Ill. Oct. 28, 1985).

8. This Court may authorize service by electronic means on GigaMedia consistent with Rule 4(f)(3) (*see Rio Properties*, 284 F.3d at 1017-18).

9. This Court may also order service of process on counsel for GigaMedia as such court-ordered service is sufficient to satisfy due process concerns and does not improperly infringe on the attorney-client relationship pursuant to Fed. R. Civ. P. 4(f)(3). *See Forum Financial Group, LLC v. President and Fellows of Harvard College*, 199 F.R.D. 22, 24-25 (D. Me. 2001); *Ehrenfeld v. Salim A Bin Mahfouz*, 2005 WL 696769, at *3 (S.D.N.Y. March 23, 2005). This Court may order that such service occur and be deemed effective pursuant to Rule 4(f)(3) where it is evident that the attorney is aligned with the party or has communicated or consulted with the party regarding the litigation. *See Rio Properties*, 284 F.3d at 1017; *Forum Financial Group*, 199 F.R.D. at 24-25 and n. 5; *Ehrenfeld*, 2005 WL 696769, at *3.

ORDER

The Court having reviewed Harrah's Motion for Alternative Service and GigaMedia's Non-Opposition thereto, and good cause appearing, it is hereby ORDERED and DECREED as follows:

MDW

DATED: September 8th, 2010.

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